



United Domestic Workers of America

Affiliated with NUHHCE, AFSCME, AFL-CIO

3737 Camino del Rio S., Suite 400

San Diego, CA 92108

Telephone 1-800-621-5016 Fax 619-263-7899

PRELIMINARY COMMENTS ON THE CALIFORNIA PERFORMANCE REVIEW

**HHS02: Realigning the Financing and Administration of Health and
Human Service Programs**

**HHS32: Transfer the In-Home Supportive Services Program to the
Department of Health Services**

August 20, 2004

San Diego, CA.

The United Domestic Workers of America (UDW) has taken an active role in policymaking at the state level ever since its beginning in 1977. Our advice has been important in the adoption of several reform measures relating to the In-Home Supportive Services (IHSS) program, including sponsoring AB 1682, the 1999 statute requiring counties to develop procedures for screening prospective IHSS home care workers, set up advisory committees which enable IHSS clients to speak directly to county policymakers, and establish a local Employer of Record to provide an administrative structure to ensure program accountability, eliminate fragmentation of service delivery, implement program standards and establish an orderly process for labor relations. These changes are making it possible to address longstanding IHSS deficiencies and thereby improve the quality, safety and reliability of care under this program.

UDW appreciates Governor Schwarzenegger's interest in IHSS, clearly in evidence during the current legislative session. Approval earlier this month of his Independence Plus waiver application will protect critical services and draw down a more equitable share of federal dollars, saving California taxpayers \$1.7 billion over five years, including \$200 million to the state in 2004-05 alone. UDW is proud to have been one of the first to call for the waiver as a responsible, proactive solution to the budget crisis. The Governor's Quality Assurance Initiative, after review by stakeholders and adoption by the Legislature, should also help ensure more uniform care for IHSS clients and further improve cost effectiveness.

This month the Governor released his California Performance Review (CPR), encompassing all facets of California state government. The two recommendations affecting California's IHSS program include shifting financial and management

responsibility from California's 58 counties to the state¹ and shifting IHSS program operations from the California Department of Social Services (CDSS) to the California Department of Health Services (CDHS).² Currently, IHSS is funded through a combination of federal, state and county funds. The rationale put forth for this recommendation is: "Moving full responsibility and funding for IHSS to the state would address the gap that currently exists in the continuum of services administered by the state for seniors and disabled persons who are at risk of institutionalization in a nursing facility [and] centralize the full range of acute, in-home, day care and institutional services at the state level..."

These changes will have significant and widespread consequences for the 359,000 elderly and disabled individuals receiving services under IHSS, the home care workers who provide their care and the various county and state departments that administer this program. A serious, **comprehensive analysis of the impact of these proposed changes is required before a determination of their propriety can be made.** UDW has the following questions to initiate this process.

1. How would these revisions strengthen and protect the guarantees in AB 1682 that Public Authorities assist IHSS clients in obtaining reliable and safe home care workers and provide necessary training programs? One important provision in the 1999 statute is the requirement that each Public Authority assist IHSS consumers in finding locally available workers through the establishment of a registry of potential IHSS workers who have been screened through background checks and other means. Another is the requirement to establish training programs for workers and clients. Clarification is needed regarding the continuation of these local functions under any statewide management.

2. Would county advisory committees continue to provide input on program design and implementation? AB 1682 requires IHSS advisory committees in each county. These committees are required to have a voting majority of IHSS consumers/clients and are charged with reviewing county IHSS policy and making recommendations to their county Board of Supervisors and employers of record. For the first time at this level, IHSS clients have a formal role in making IHSS policy and administration of the program that provides the services that keep them alive, at home, safe and independent.

3. What impact would this have on California's exposure to liability for IHSS client injuries? Restricting liability to IHSS Public Authorities and providing immunity for the state and counties was a priority behind the enactment of AB 1682. This exposure can be particularly acute in a situation involving the decentralized, in-home care of 350,000 aged, blind and disabled individuals, each of whom hires his or

¹ The recommendation for moving the responsibility to the state (operated through counties) apparently stems from the fact that although counties have a perceived financial stake in IHSS, they have no stake in the next higher level of care, nursing home facilities, which cost several times as much. This could result in referring high-need IHSS clients to nursing homes when remaining in their homes is possible under IHSS rules.

² CPR, HHS02, Section B.

her own caregiver. This issue has been raised in both Humboldt and San Diego County in recent years.³

4. How would collective bargaining in each of California's 58 counties be managed if program administration were moved to the state level? Currently, IHSS workers, through their representatives, negotiate labor agreements with local IHSS employers of record, generally Public Authorities. Each county Public Authority negotiates a separate agreement with different wages that currently range from an average of \$8.50 per hour to \$10.60 per hour, plus benefit structures that include health and sometimes vision, dental, holidays, sick leave and pension. Individual contracts or Memorandums of Understanding extend over varying periods of time. The collective bargaining process and resulting improvement in wages and benefits has been credited with helping to **stabilize the IHSS workforce**, attract and retain more qualified providers and **reduce the high turnover rates** that threatened care and jeopardized the health of many severely impaired individuals. How will the collective bargaining process and labor relations be conducted under a state administration of the IHSS program?

5. How would the Governor's Quality Assurance Initiative be affected and administered? A most critical issue is standards of care for IHSS clients. The current standards, now carried in MPP 30-700 *et seq.*, are undergoing major review on a compressed time schedule as required in SB 1103, the 2004-05 Health & Human Services budget trailer bill. How will this review be integrated with the proposed changes and what entity at the local level will be responsible for implementing the initiatives and evaluating their effectiveness?

CDSS has projected savings in 2004-05 from these reforms at only 2% of the total cost because of the need for new standards, training and rules.⁴ After new rules are in place, the Administration indicated, savings would be at least **10%** and as much as **25%**.⁵ Do these projections remain valid?

6. Where should responsibility for client assessments be located? Decisions regarding the responsibility for IHSS client assessments under the new administrative structure can be made after the shape of the new system is clearer. Assessments are currently made by county staff, employed by local social service departments, using state guidelines. Does the proposal envision state staff, who are generally further removed from the actual delivery of services, assuming this function? What impact will this proposal have on current county and state employees?

³ See especially the 2003-04 Humboldt Grand Jury report, An Investigation into Humboldt County's Adult Protective Services and In-Home Supportive Services http://www.co.humboldt.ca.us/grandjury/Reports/2003-2004/2003-4_FinalReport.pdf.

⁴ The 2% figure is derived from CDSS, Fiscal Policy and Estimates Branch, May 2004 Revise, "IHSS Quality Assurance," p. 266.

⁵ Department of Finance, Governor's Budget Summary, 2004-05, p. 130.

7. What is the actual fiscal impact of the proposed shift to state administration? CPR projects a savings of **\$543 million** to counties and an additional like amount of cost to the state.

(a) The 2004-05 California budget lists the county share for client hours alone as \$578.5 million in the 2004-05 year. These funds are part of the Realignment Trust Fund, which allocates 24.33% of VLF funds and ½ cent of the state sales tax to fund the county share of seven county programs. As these funds are collected by the state and redirected via the VLF to the counties, would the realignment statute be changed to exclude the IHSS portion? The mechanism for severing the fraction devoted to IHSS is unclear.

(b) In addition to the federal, state and local costs for IHSS workers, there are major county and state costs, which would (initially, at least) increase while the shift is being made. It is unclear what these costs would be.

(c) The shift in IHSS is part of the total package of proposals that CPR makes with regard to the counties. The net effect of these shifts would need to be articulated before the total impact could be assessed.

8. What would happen to the dollars owed to counties in realignment funds to compensate for IHSS costs? Realignment funds for seven different programs, including IHSS, are owed to the county to pay back funds for previous years. The 2002-03 shortfall for IHSS caseload growth was nearly **\$80 million alone**.⁶ Counties are expecting that these funds will be returned. How will the shift in administration of the IHSS program resolve this situation?

The foregoing are major deliberations to make during consideration of these IHSS program reforms. All stakeholders, not just governmental entities, must participate in the process. The Governor's working group must involve a wider, representative net to ensure a balanced, comprehensive and effective process.⁷

In closing, UDW commends the Governor and members of the California Performance Review Team for their effort towards achieving a more effective government. That is certainly a goal in which we can all share. We look forward to working with them further as these proposals are analyzed and deliberated.

⁶ Letter, Nicolas Schweizer, Principal Program Budget Analyst, California State Department of Finance, to Steven C. Szalay, Executive Director, California State Association of Counties, February 6, 2004. This is a revision of the October 2, 2003 figures.

⁷ The newly enacted W&I§12305.72 relating to the forthcoming IHSS Quality Review effort includes all stakeholder groups, also including program "recipients, providers, advocates . . . provider representatives, organizations representing recipients, public authorities, nonprofit consortia and other interested stakeholders."